

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

William A. Mandelbaum,
Petitioner-Appellant,

v.

Polk County Board of Review,
Respondent-Appelle.

ORDER

Docket No. 11-77-0934
Parcel No. 090/07279-061-000

On January 15, 2013, the above captioned appeal came on for a hearing before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. The Petitioner William A. Mandelbaum was self-represented and requested a hearing. The Polk County Board of Review was represented by Assistant County Attorney Ralph Marasco, Jr. The Appeal Board, having reviewed the record, heard the testimony, and being fully advised, finds:

Findings of Fact

William Mandelbaum is the owner of a residential condominium located at 3663 Grand Avenue, Unit 801, Des Moines, Iowa. The property has 923 square feet of living space, one bedroom, one full bathroom, one indoor parking space and was built in 1963. The property has a good quality view, a high quality (Grade 2) finish, and is in normal condition.

Mandelbaum protested to the Polk County Board of Review regarding the 2011 assessment of \$90,000, allocated \$11,100 in land value and \$78,900 in improvement value. The claim was based on the ground that the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2). Mandelbaum claimed the property's correct value was \$60,419.58.

The Board of Review relied on an Appraiser Analysis completed by Rich Colgrove. Colgrove spoke to the owner and noted the reason for the petition is market value. Mandelbaum told Colgrove the unit had not been upgraded and Colgrove then changed the condition from very good to normal. Although Mandelbaum attached sales from three different condominium complexes, Colgrove felt enough sales data was available in the subject's property building and did not give much weight to the sales in the other two buildings. Because the market data did not support the assessment, the Board of Review reduced the assessment from \$90,000 to \$80,000, allocated \$11,100 to land value and \$68,900 to improvements.

Mandelbaum then appealed to this Board reasserting the claim of over-assessment. In a July 1, 2011, letter to the Board of Review, Mandelbaum asserted the property's assessed value should be either \$62,930.14 or \$63,606.93, depending on the data utilized.¹ He contends the assessment of his property should be based on recent sales not only in his building, but also in nearby buildings. In support of his claim, he provided sales data of sixteen properties with sales in the past two years. The following is a summary of these properties.

¹ This letter served as Mandelbaum's appeal to this Board.

Property	Sale Date	Address	Sale Price	Square Feet	Sale Price Per Square Foot
1	6/9/2011	505 36th St, Unit 104	\$ 108,000	1449	\$ 74.53
2	5/2/2011	3663 Grand, Unit 504	\$ 87,750	1238	\$ 70.88
3	4/30/2011	505 36th St, Unit 502	\$ 95,000	1449	\$ 65.56
4	2/22/2011	3660 Grand, Unit 740	\$ 145,000	1710	\$ 84.80
5	2/1/2011	3660 Grand, Unit 210	\$ 75,000	1710	\$ 43.86
6	11/7/2010	505 36th St, Unit 102	\$ 99,500	1449	\$ 68.67
7	9/22/2010	3660 Grand, Unit 708	\$ 89,900	1218	\$ 73.81
8	6/29/2010	3663 Grand, Unit 505	\$ 59,900	938	\$ 63.86
9	5/17/2010	3660 Grand, Unit 940	\$ 102,000	1440	\$ 70.83
10	3/16/2010	3660 Grand, Unit 440	\$ 97,500	1710	\$ 57.02
11	12/11/2009	3660 Grand, Unit 310	\$ 115,900	1710	\$ 67.78
12	11/25/2009	3660 Grand, Unit 930	\$ 105,000	1710	\$ 61.40
13	8/8/2009	3660 Grand, Unit 610	\$ 95,000	1440	\$ 65.97
14	8/7/2009	3663 Grand, Unit 701	\$ 59,900	923	\$ 64.90
15	7/2/2009	3663 Grand, Unit 901	\$ 100,000	923	\$ 108.34
16	7/1/2009	3660 Grand, Unit 540	\$ 114,000	1710	\$ 66.67

The average-per-square-foot sales price of these properties is \$69.30.² The median sales price per-square-foot is \$67.22. The properties in Mandelbaum's building have an average sales price per-square-foot of \$76.99. This compares with the subject property's per-square-foot assessed value of \$86.67.³

Prior to his hearing before this Board, Mandelbaum also provided evidence of a total of thirty-two sales from January 1, 2009, to November 9, 2012. (Exhibit 2). These sales have an average sales-price-per-square-foot of \$70.46 and a median sales price per-square-foot of \$68.22. Including only sales in Mandelbaum's building, the average and median sales-price-per-square-foot are \$73.76 and \$73.81 respectively. (Exhibit 3). Mandelbaum did not make any adjustments to these sales to account

² We recognize the average sales price per-square-foot as determined by this Board differs from Mandelbaum's calculations. We find the most appropriate method for determining the average sales price per-square-foot is to first calculate the sales price per-square-foot for each comparable before determining the average.

³ \$80,000/923 = \$86.67.

for differences in size, finish, or amenities. The unadjusted sales data provided by Mandelbaum appears to indicate his property is over-assessed.

Mandelbaum states that another unit in his building (Unit 901) sold for \$100,000 on July 2, 2009, after extensive updating. He indicates that his unit, unlike Unit 901, has not had any updating since he moved in eight years ago. Therefore, he argues that Unit 901 should be excluded from consideration in determining his property's fair market value. In contrast, he asserts that two one-bedroom units (Units 505 and 701) in his building sold for \$59,900 and have similar square-footage as his unit.

There is minimal evidence in the record establishing the condition, quality, or other characteristics of Units 505 and 701 and Mandelbaum's own assertions constitute the only evidence as to the condition of Unit 901. Mandelbaum did not make any adjustments to Units 505, 701, or 901 to account for differences in condition, view, or other amenities, such as parking. Further, he provided no additional information, such as an appraisal, indicating the subject property's correct value as of January 1, 2011.

We find Mandelbaum has provided sufficient evidence suggesting his property is likely over-assessed, but has not meet his evidentiary burden to show the correct value of his property as of January 1, 2011. We recommend, however, the Board of Review re-assess the property to ensure that it is assessed at fair market value for the January 1, 2013, assessment date.

Conclusion of Law

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds

presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2). The property's assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). While Mandelbaum provided sufficient information demonstrating his property is over-assessed, he failed to provide sufficient evidence of the property's correct value as of January 1, 2011. The only evidence he provided demonstrating the subject property's market value were unadjusted sales of properties located in his building or in nearby condominium locations.

Mandelbaum principally relies on Units 505 and 701 in his building as comparable properties and argues that their sale prices are reflective of his property's market value. Aside from Mandelbaum's assertions, he has not provided any evidence, such as a property record card, on which

this Board can rely to determine the comparability of these properties. Further, Mandelbaum did not make any adjustments to account for differences between his property and Units 505 and 701, including view, condition, or amenities, such as parking. We note that these properties probably only require minimal adjustments as they likely share many similar characteristics, including age, grade, building features, and they are roughly the same size. Without adjustments or more substantial evidence of the characteristics of Units 505 and 701, however, this Board cannot determine if their sale prices are an accurate reflection of the subject property's fair market value. Mandelbaum has not met his evidentiary burden establishing the subject property's correct value as of January 1, 2011.

THE APPEAL BOARD ORDERS that the January 1, 2011 assessment is affirmed, allocated \$11,100 to land value and \$68,900 to improvements. However, we recommend the Board of Review and the Polk County Assessor re-assess this property for the January 1, 2013, assessment date to ensure the property is not over-assessed.

Dated this 25 day of January, 2013.

Stewart Iverson
Stewart Iverson, Presiding Officer

Karen Oberman
Karen Oberman, Board Member

Jacqueline Rypma
Jacqueline Rypma, Board Member

Cc:

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PETITIONER-APPELLANT

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ATTORNEY FOR RESPONDENT

Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>1-25</u> , 2013	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	<u>Jenna Cooper</u>